Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-128
Pay Telephone Reclassification and	)	
Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

REPLY COMMENTS OF COMMUNICATIONS CENTRAL INC.

I. INTRODUCTION

Communications Central Inc. ("CCI") respectfully submits its reply comments in the above captioned docket. CCI is the nation's second largest competitive payphone service provider ("PSP") with over 26,000 phones in 41 states and is a publicly-held company listed on the Nasdaq exchange.[1]

CCI's reply comments herein relate only to its public payphone operations. As a member of the American Public Communications Council, Inc ("APCC") and the Georgia Public Communications Association ("GPCA"), CCI adopts the APCC's and GPCA's reply comments in

[1] Of the 26,000 phones, the Company currently operates approximately 5300 inmate phones in over 500 confinement facilities located in 35 states through its wholly-owned subsidiary, InVision Telecom, Inc. InVision has filed separate initial comments in this proceeding.

this proceeding consistent with CCI's reply comments, as well as the APCC's and GPCA's reply comments on issues not specifically addressed in the reply comments below.

II. SUMMARY

CCI's comments herein reply to the issues of fair compensation for all calls made from payphones, the type and extent of nonstructural safeguards necessary to be applied to the LECs' payphone operations, and the requirement of fair LEC asset transfers and appropriate valuations.

The cornerstone mandate of the payphone provisions in the Telecommunications Act of 1996 (the "Act") directs the Commission to take all action necessary to "promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public."[2] This mandate can only be accomplished by developing a system which fairly compensates CCI and other competitive PSPs for each and every completed intrastate and interstate call Receipt of such compensation is essential to CCI's financial viability, and therefore, to its ability to deploy the highest quality public communications services to the general public in furtherance of the Act's goals

The Commission must take affirmative steps to ensure fair compensation and reject as clearly inadequate interexchange carrier ("IXC") proposals to base the per call compensation amount on the marginal cost of providing service Each call placed from a payphone must bear its

[2] 47 U.S.C. Section 276 (b) (1).

fair share of cost and be fairly compensated. Clearly, no business could survive by only recovering its marginal costs. There is no credible evidence of record to rebut CCI's contention that the appropriate fair compensation rate is a minimum of 40 cents for all coinless calls using a payphone.

The record also establishes the Act's intent in ensuring fair compensation for local coin calls. Both the record and the Act's mandates support and demand the Commission's development of a consistent compensation approach for all calls, including local coin calls. This approach requires the Commission to apply the same minimum 40 cent rate to the initial increment of local coin calls from payphones. To further maintain consistency in its approach, the Commission must grant interim compensation at a minimum 40 cents per call to competitive PSPs to be effective as of the release date of the Notice and continue until final Commission rules are implemented.

In addition, the Commission must develop appropriate nonstructural safeguards that strongly protect against setting discounts for basic interconnection and other services at volume levels for which only the LECs' payphones can qualify. The LECs' payphone asset transfers must also include the economic value of their location contracts for the Commission to meet the Act's mandates of promoting competition among PSPs. Competition may be virtually nonexistent if the transfer of LEC payphone assets is made at net book value and without the inclusion of the value of location contracts.

III. DISCUSSION

A. Fair Compensation Must Apply To All Calls From Payphones

1. Each Call Must Be Fairly Compensated To Eliminate Current Inequities

For years, revenue from "0+" calls has, by necessity, contributed to CCI's and other competitive PSPs' payphone operations due to fundamental financial and operational inequities which remained unaddressed by regulatory authorities. However, as the APCC correctly notes in its comments, this reliance has led to the "economic destabilization of a payphone industry that is over-dependent for its economic survival on a small and dwindling number of calls making up a tiny fraction of the total use of the payphone."[3] Specifically, the APCC recognized the effectiveness of the IXCs' continuing barrage of consumer solicitations to "dial around" the presubscribed interexchange carrier at payphones.[4] As more calls were moved to "dial around", competitive PSPs were forced to raise rates on the few remaining "0+" calls from their phones. In addition, the significant surge in "800 subscriber calling" was substantially increasing the number of calls for which competitive PSPs were not being compensated.

The dramatic impact of this necessary reliance by competitive PSPs and the continuing reduction in "0+" calls at payphones due to dial-around calling is readily apparent from the data filed in CCI's initial comments. CCI is well qualified to provide the Commission reliable

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[3]APCC Comments at 7

[4]Id. at 8-9.

information on which to base its decisions by virtue of its position as the second largest independent PSP in the country and its broad-based operational experience in 42 jurisdictions.

Attachment B to CCI's initial comments reflects that in May of this year, an average of over 129 completed 800-dialed calls were made from each CCI payphone. The majority of these calls -- approximately 80 of the 129 -- were "subscriber 800," with the caller directly dialing his party via an 800 number (e.g., 1-800-FLOWERS). The remainder of the 800-dialed calls were access code calls, with the caller dialing an 800 access code to reach a long distance carrier other than the payphone's presubscribed carrier. Attachment C to CCI's initial comments details the tremendous decline in CCI's "0+" revenues during the past three years, ranging from a per-phone high of $161.73 in August 1993 to a low of $57.96 in February of this year.

Thus, not only are CCI's revenue opportunities being substantially reduced by the continuing increase in dial-around access code calling, but the number of uncompensated uses of CCI's payphones is also skyrocketing due to 800 subscriber and other toll-free calling, including debit card calls. The ultimate result of these and other unresolved inequities is CCI's movement from profitability to a net loss of approximately $13.00 per payphone per month.[5] Such inequities must be rectified through the development of fair compensation for all calls if the Act's goal of promoting competition and widespread deployment of payphones for the public's benefit is to be realized.

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[5]See CCI Comments, Attachment A.

2. The Compensation Amount For All Calls Should Be A Minimum Of 40 Cents

The record has established that the Commission must take affirmative steps to ensure that the payment amount for all calls is fair and compensatory In taking such steps, IXC proposals to base the per call compensation amount on the marginal cost of providing service must be rejected as clearly inadequate in measuring fair compensation for competitive PSPs.

Each call from a payphone must bear its fair share of cost and be fairly compensated. CCI believes that marginal costing is an appropriate methodology only when the Commission would ensure a total revenue requirement, unless it desires to dramatically raise the price of other calls. No business can survive by only recovering its marginal costs.

Nevertheless, Sprint has advocated that to the extent PSPs "are already recovering their costs, any compensation ordered by the Commission will be a windfall."[6] This is, in fact, not true! It is predictable that long distance carriers would be reluctant to share revenues which they have unfairly gained from payphone providers since competition began. It is also notable that their efforts to depress the compensation amount comes at a time when most long distance firms are expected to report "solid second-quarter earnings increases based on an old-fashioned formula: rising call volume."[7] The record proves that the use of payphones has significantly contributed to

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[6]Sprint Comments at 2

[7]See Attachment A, "Most Long-Distance Firms Are Expected To Report Increases in 2nd-Period Net," Wall Street Journal, July 8, 1996, page B6A.

the increase in calling volume to long distance companies Contrary to Sprint's assertion, the true "windfall" has been the tremendous benefit long distance carriers have enjoyed for over a decade as hundreds of thousands of competitive PSPs have continued to generate substantial revenue on their networks *for little or no compensation.* There is no credible evidence of record to rebut CCI's contention that the appropriate fair compensation rate is a minimum of 40 cents for all calls using a payphone, including access code, subscriber 800 and other types of "dial-around" calls.

3. The Mandate of Fair Compensation Must Apply to Local Coin Calls

The record in this docket further establishes the Act's intent in ensuring that virtually each and every call made from a payphone, except emergency and telecommunications relay services calls, is fairly compensated. This broad mandate must include a rate for local coin calls, which has not increased in most states since payphone competition began over a decade ago. Without adequate compensation for the greatest category of calls generated by payphones, the fundamental inequities which have led to the "economic destabilization of the payphone industry" cannot be adequately corrected.[8] Fair compensation for local coin calls is a crucial piece of the puzzle in ensuring that competitive PSPs are fairly compensated for each use of the payphone. There is no basis in the Act nor the record in this docket that supports compensating calls differently, based on the type of call for which the payphone is being used.

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[8] APCC Comments at 7

Predictably, a few states advocated against the Commission exercising its jurisdiction and duties under the Act to set a nationwide local coin rate to provide uniformity for users and ensure fair compensation for such calls. However, both the record and the Act's mandates support and demand the Commission's development of a consistent compensation approach for all calls which, by definition, includes local coin calls. This approach requires the Commission to apply the same compensable rate to every payphone call. Therefore, CCI strongly asserts that a minimum 40 cent rate must also be applied to the initial increment of local coin calls. Setting a nationwide coin rate at this minimum level can fairly compensate competitive PSPs and provide a simple and uniform rate structure for callers. Such Commission action is in the public interest and is most consistent with the Act's mandates.

B. Receipt Of Interim Compensation Is Crucial And Is Supported By the Record

1. There Is An Immediate Danger Of A Further Reduction of Payphones Which Is Inconsistent with the Act's Goals

Contrary to the IXCs' assertions, without immediate economic relief on an interim basis, competitive PSPs will be forced to remove additional payphones from areas in which they cannot be financially supported. Such a danger is real and apparent from CCI's own statistics in recent months. While certain low margin payphones may remain installed as part of a negotiated agreement with a national or regional account, nearly two-thirds of CCI's payphones are located in "mom and pop" type locations, such as a locally-owned neighborhood convenience store or gas station, and are subject to removal due to low revenue performance.

Unfortunately, during the first six months of 1996, CCI was forced to remove over 1,000 payphones because they could not be profitably maintained in the current negative economic environment. More payphones are threatened with removal. Such removals are inconsistent with the Act's mandate to "promote the widespread deployment of payphone services to the benefit of the general public."[9] Unless the Commission takes immediate and effective action to order fair interim compensation for competitive PSPs, the level of public payphone service will be reduced.

2. Uncompensated or Minimally Compensated Coinless Calls From CCI's Payphones Continue To Increase

The record clearly reflects that CCI currently is not being compensated for most coinless calls made from its payphones. Although a *de minimis* amount of compensation is received for interstate access code calling, only a handful of states have ordered intrastate compensation for these same calls.[10] Moreover, 800 subscriber calls, which CCI's data reflects constitute more than

[9] 47 U.S.C. Section 276 (b) (1).

[10] Only AT&T is currently paying 25 cents per call for all intrastate access code calls.

60 percent of its 800-dialed calls,[11] remain entirely uncompensated on both the federal and state levels.[12]

The record further proves that since the Commission's original award of per phone dial-around compensation for interstate access code calls in 1991, the volume of these calls, such as 1-800-CALL-ATT and 1-800-COLLECT, has dramatically increased.[13] In 1991, the Commission used a per phone per month figure of 15 calls. CCI's figures evidence that 800 access code calls alone now total more than three times the Commission's original calculation for all forms of access code calling -- nearly 50 calls per payphone per month.[14] Further, CCI's access code call data does not even include 10XXX or 950 type calling, which would substantially increase the total number of access code calls generated per payphone.

[11]See CCI Comments, Attachment B.

[12]Though North Carolina and Texas rules allow 25-cent coin deposits to be required for placing certain 800-type calls, the marketplace has dictated that CCI cannot reasonably apply these charges, since the LECs have not uniformly applied such charges on their own payphones. Further, it is technically impossible to charge for these calls and comply with the requirements of the Telephone Operator Consumer Services Improvement Act of 1990 ("TOCSIA"), unless providers charge for all such calls from their payphones.

[13]Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Report and Order, CC Docket No. 91-35, 6 FCC Rcd 4736 (1991).

[14]Id.

3. The Record Supports Implementation Of Immediate Interim Compensation

Though the Act directs the Commission to establish a permanent method of ensuring fair compensation for all calls from payphones by early November, implementation is at least four months away. CCI agrees with the APCC that unforeseen factors may delay final resolution of the new compensation system and may require any interim methodology to remain in effect longer than anticipated.[15] Therefore, it is imperative that CCI and other competitive PSPs receive immediate interim compensation for calls which are currently uncompensated from payphones, and that the interim payment amount is set at a fair and compensatory level.

CCI believes the record justifies its original assertion that competitive PSPs should receive interim compensation at a minimum level of 40 cents per call to be paid from June 6, 1996, the release date of the Notice, until the implementation of the final rules adopted in this proceeding.[16] Further, such compensation can be paid, if necessary, on a flat rate payment system similar to the methodology used by the Commission for interstate access code calls, which is easily adaptable to the development of the interim compensation method in this docket.[17]

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[15]APCC Comments at 34-40.

[16]CCI Comments at 10-11.

[17]Id.

C. LEC Nonstructural Safeguards Are Essential To Ensure Competition

1. The Commission Must Go Beyond Computer III Safeguards

As the comments of the Georgia Public Communications Association ("GPCA") note, there are very real dangers in the potential actions of local exchange company ("LEC") payphone divisions which must be prevented by the implementation of specific nonstructural safeguards.[18] These nonstructural safeguards are mandated by the Act to be at a minimum of Computer III levels.[19] However, the Act also requires the Commission to ensure that a Bell company does not "subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations" and, further, to ensure that no Bell company "prefer[s] or discriminate[s] in favor of its payphone service."[20] In order to meet this mandate, CCI agrees with the GPCA that the Commission must provide stronger protection than was required in Computer III due to the unique nature of the payphone industry and the resulting inequities that have manifested themselves since deregulation. Based on comments filed by the LECs and on CCI's own long-term industry experience, CCI asserts that there are two particular areas that merit special attention from the Commission regarding additional safeguards: volume discounts and asset valuation.

[18]GPCA Comments at 3.

[19]47 U.S.C. Section 276 (b) (1) (C).

[20]47 U.S.C. Section 276 (a).

2. LEC Volume Discounts Must Be Prohibited or Carefully Scrutinized

In particular, the GPCA advocates that the Commission should ensure that LECs cannot provide themselves with volume discounts on either basic interconnection rates or coin line features, "the eligibility rules for which effectively ensure that the LEC's own payphone operations are the only beneficiaries of dramatic discounts."[21] With regard to basic interconnection discounts, the GPCA further notes that while some level of discount may be justified, "there is potential for abuse as long as a Bell company is able to set criteria to qualify for its deepest discounts at volume levels (e.g., based on total number of payphone lines) for which only the LEC's payphones can qualify.[22]

CCI strongly agrees with these assertions. Even with more than 26,000 phones, CCI's payphone base is dwarfed by the size of many LEC payphone divisions and by any of the Bell company's in-region payphone service entities. This will remain the case for the foreseeable future. For example, BellSouth's payphone division alone encompasses over 138,000 payphones, not including its semi-public phones. The danger of the LECs' payphone units using such market power to stifle competition is intensified even more by the mergers occurring between certain of the Regional Bell Operating Companies ("RBOCs"). A recent case in point is the announcement

[21]GPCA Comments at 9.

[22]Id.

by Southwestern Bell Communications Services, Inc. and Pacific Bell Communications that they have signed letters of intent to purchase wholesale long distance transport service from Sprint. The companies stated that "'combining their buying requirements' enabled them to 'secure the best possible wholesale interexchange rates and services.'"[23] Such dangers speak for themselves and are magnified in the context of payphone competition.

The Commission must take strong action to adopt standards on the types of volume discounts that may be offered. In this vein, CCI further agrees with the GPCA to the extent that if discounts are allowed at all, the largest discount should be applicable to quantities of payphone lines as low as 5% of the number of payphone lines provided to the LEC payphone division and affiliated entities in the area covered by the tariff.[24] In addition, as a condition of permitting the LECs to offer volume discounts within certain restrictions, competitive PSPs must be allowed to aggregate among different companies to qualify for volume discounts in order to effectively compete in a deregulated market.[25]

3. Valuation Must Be At Economic Value and Include Location Contracts

One of the most critical issues in moving the LECs' payphone operations to unregulated status concerns which LEC assets are to be transferred and at what value. Contrary to the

[23] TR Daily, July 9, 1996.

[24] GPCA Comments at 10.

[25] Id.

RBOCs' positions, CCI believes it essential that the LEC assets to be transferred must include "location contracts" which are appropriately valued on an economic basis.[26] Without question, location contracts are the key elements of value for a payphone business such as CCI's. CCI agrees with GPCA that an equitable valuation method for Commission consideration is the per-phone prices of recent acquisitions made by PSPs.[27]

Attachment B to these reply comments details the valuation of certain acquisitions completed by CCI during the past several years. As the data shows, the valuations range from a low of $2,261 to $12,135 per payphone or access line This acquisition history also reveals how the payphone acquisition market matured beginning in mid-1994 Specifically, CCI increasingly realized the significant and essential value of location contracts and began allocating more of the purchase price to the intangibles which were acquired This recognition continued in late 1994 and 1995 and, on an average weighted basis, CCI allocated over 65 percent of the acquisition purchase prices to intangibles during that period

Marketplace realities and experience prove that location contracts are the mainstay for valuation purposes and are allocated substantial value and goodwill in the purchase price per payphone. Thus, since location contracts are key determinants of the value of the payphone as

[26]"Location contracts" are agreements which allow for the placement of payphone equipment at a particular location for a specified term under certain terms and conditions, which normally include commission payments to the location owner in return for such placement.

[27]GPCA Comments at 17.

installed, all such contracts must be transferred with the LECs' payphone equipment and the value of these contracts must be included in the valuation of the LECs' payphone assets.[28]

With regard to the appropriate transfer mechanism and resulting value of the LEC payphone assets, CCI strongly advocates that the Commission apply an economic value standard versus a net book value approach as suggested by the LECs As the Commission has previously recognized, economic value includes more than physical assets and considers the value of a deregulated business as a "going concern."[29] The Commission has previously determined that net book value is an appropriate surrogate for the economic value of the Bell companies' customer premise equipment ("CPE") transferred out of regulation.[30] CCI agrees with GPCA that net book value cannot be the appropriate valuation for the Bell companies' payphone assets.[31] Net book value is not even a proper valuation method for installed payphone equipment and is certainly not an adequate measure without capturing the value of the Bell companies' location contracts.

The Commission is directed by the Act to promote payphone competition.[32] This required promotion can only occur if the LECs' payphone assets are valued on an economic basis.

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[28]See also GPCA Comments at 15.

[29]Detariffing Order, 95 FCC 2d at 1310 (1983). See also GPCA Comments at 16.

[30]Order at 1206-10.

[31]GPCA Comments at 17.

[32]U.S.C. Section 276 (b) (1).

RESPECTFULLY SUBMITTED,

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ATTACHMENT A
COMMUNICATIONS CENTRAL INC.
THE WALL STREET JOURNAL - MONDAY, JULY 8, 1996 - PAGE B6A

Most Long-Distance Firms Are Expected To Report Increases in 2nd-Period Net

By REBECCA BUCKMAN
Dow Jones News Services

NEW YORK – Most long-distance carriers, notably **AT&T** Corp. and **MCI Communications** Corp., are expected to report solid second-quarter earnings increases based on an old-fashioned formula: rising call volume.

Higher call volume "is a rising tide that's raising all ships," said Richard Klugman, who follows long-distance companies for PaineWebber Inc. "I think you're going to see some steady earnings growth," he said.

Mr. Klugman and other industry watchers predicted that stable pricing coupled with higher volume–derived from more phone lines in use, often in the form of second residential hookups and new computer modems–will boost earnings for AT&T and MCI around 10%.

Those companies' growth should outpace that of **Sprint** Corp., which analysts said was hit harder than expected in the second quarter by costs associated with two new ventures, Sprint Spectrum and Global One. The other major long-distance companies also are absorbing some costs related to new projects.

In the background, customer turnover, called "churn," continues to keep the quarter-by-quarter financials of the Big Three companies in flux. And up-and-coming carriers such as **WorldCom** Inc. and **Frontier** Corp. continue to eat away at their market share, particularly in the business sector. Analysts predict those smaller firms' second-quarter profit growth will be around double that of the more established companies.

Long-distance stalwart AT&T should report steady earnings growth for the second quarter, analysts said, partly as a result of its aggressive campaign to win back residential customers by writing them checks for as much as $100. Frank Governali, who follows AT&T for CS First Boston, said AT&T increased its overall call volume about 8% in the quarter.

He predicted earnings of 92 cents a share, compared with First Call's consensus estimate of 94 cents. Last year, the company reported second-quarter profit of 85 cents a share.

Analysts' AT&T numbers reflect only the company's continuing communications operations. By the end of the year, AT&T will have spun off its AT&T Capital Corp., NCR Corp. and Lucent Technologies Inc. units.

Call volume also is up at rival MCI, but not as much as in the first quarter, analysts said. Blake Bath of Lehman Brothers Inc. said the company increased its volume 14% in the second quarter from a year earlier. But that falls well short of MCI's first-quarter increase of 21%.

The drop reflects a conscious effort by MCI to move away from "getting a residential customer for the sake of a residential customer," unlike AT&T, said Bette Massick Colombo, an analyst with Bear, Stearns & Co. Instead, the company is focusing on bundling several communications services together in its new MCI One service for residential customers.

"They'll pay near-term by some revenue loss in that segment," said analyst Linda Meltzer of UBS Securities Inc. "But long term, they're creating better [customer] retention and service."

Ms. Meltzer predicted second-quarter earnings for MCI will come in at 42 cents, one cent below the First Call estimate of 43 cents. That compares with earnings of 38 cents a year earlier.

The remaining Big Three company, Sprint, has had the toughest quarter. While the First Call consensus predicts earnings of 74 cents a share, compared with 70 cents last year, some analysts are expecting profits of only 70 cents or 72 cents. That mainly results from the dilutive effects of Sprint Spectrum, a project now providing personal communication services in the Baltimore-Washington area, and Global One, a consortium of U.S., French and German phone companies that provides international telecommunications services.

Still, most analysts believe projects such as Sprint's will pay off in the long run, when long-distance companies will be forced to deliver an array of communications services.

At the same time, they will face more competition from smaller long-distance carriers such as WorldCom, Frontier and **LCI International** Inc. Most of the smaller carriers buy space on the existing networks of the Big Three and resell it to new customers at a profit.

First Call estimates that WorldCom will post second-quarter earnings of 44 cents a share, compared with 33 cents last year; that Frontier will report 41 cents, compared with 33 cents; and that LCI will post 18 cents, compared with 14 cents.

ATTACHMENT B

ACQUISITION ACTIVITY

Company	Date	Purchase Price/ Per Phone or Line	Amount Allocated To Intangibles Acquired
Trinity Telecommunications Co.	10/91	$ 2,083,000 / $ 3,198	$ 203,000
USPC/TeleLeasing/J&N	6/92	$13,721,000 /$ 2,896	$ 900,000
Pay Phone Systems, Inc.	12/92	$ 1,266,000 / $ 2,412	$ 375,000
Accurate Technologies, Inc	6/93	$ 900,000 / $ 3,000	$ 165,000
Public Access, Inc.	7/93	$ 5,750,000 / $ 2,885	$ 550,000
Pay-Tel of America, Inc.*	2/94	$11,303,000 /$12,135	$9,129,000
Southnet Communications Corp.	3/94	$ 1,650,000 / $ 3,644	$ 485,000
American Paytel, Inc.	5/94	$ 3,312,000 / $ 2,261	$ 582,000
Pay Telephone of Penn., Inc.	6/94	$ 1,105,000 / $ 3,187	$ 586,000
Pay-Tel of Illinois, Inc.	7/94	$ 4,162,000 / $ 2,962	$ 778,000
InVision Telecommunications, Inc.*	7/94	$4,246,000 / $ 9,649	$ 3,770,000
Pay Phones Plus, Inc.	8/94	$5,899,000 / $ 4,833	$ 3,358,000
Telso, Inc.	11/94	$12,590,000 / $5,561	$ 7,303,000
Robert Cefail & Associates*	4/95	$18,905,000 / $5,023	$13,025,000

* Noted acquisitions are inmate companies